

48A C.J.S. Judges § 217

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Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

VIII. Liabilities

A. General Considerations

§ 217. Judges and judicial officers within rule

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West's Key Number Digest

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The rule of judicial immunity applies to judges of general jurisdiction and to all persons who are an integral part of the judicial process.

The rule, that a judge is not civilly liable for acts done in the exercise of his or her judicial function, especially applies where the judge is one who has general jurisdiction.¹ Only judicial actions taken in the clear absence of all jurisdiction will deprive a judge of absolute immunity.² The rule applies to federal³ and state⁴ judges. A judge or quasi-judicial official may claim judicial immunity if he or she can demonstrate two prerequisites: (1) the ruling in question was a "judicial act," and (2) there was jurisdiction to issue the ruling. When these two prongs are met, the judge or quasi-judicial official may claim judicial immunity even if the ruling in question was unwise, reckless, or malicious.⁵

Although judicial immunity, in its strictest sense, is limited to judges, quasi-judicial immunity may extend to other public officials acting within their jurisdiction, in good faith, and while performing

judicial functions.⁶ The rule of judicial immunity extends to those whose powers and purpose are functionally comparable to that of a judge⁷ and to individuals acting pursuant to a court directive.⁸ Indeed, judicial immunity serves to provide absolute immunity from subsequent damages liability for all persons, governmental or otherwise, who are integral parts of the judicial process.⁹

However, absolute judicial immunity does not extend to every officer of the judicial system.¹⁰ The rule does not extend to quasi-judicial officers who operate outside their legal authority,¹¹ to every minor functionary,¹² or to persons who cannot be considered quasi-judicial officers.¹³

Quasi-judicial immunity is extended to prosecutors, administrative law judges, and state bar associations; their personnel; and committees.¹⁴ Judicial immunity also extends to governmental agencies and executive branch officials performing quasi-judicial functions.¹⁵ For example, judicial immunity shields administrative agency officials who participate in agency adjudications.¹⁶ Likewise, courts have granted immunity to court clerks where they were performing discretionary acts of a judicial nature.¹⁷ The extension of judicial immunity to those whose actions are an integral part of the judicial process is limited and circumscribed to claims arising from the performance of the specific judicially delegated function.¹⁸ For example, court reporters are not immune because their duties are ministerial, not discretionary, in nature.¹⁹

CUMULATIVE SUPPLEMENT

Cases:

Judicial immunity is appropriate unless a judge is carrying out an activity that is not adjudicatory. [Zenon v. Guzman](#), 924 F.3d 611 (1st Cir. 2019).

Quasi-judicial immunity extends to one who acts as the judge's designee, and who carries out a function for which the judge is immune. [Rieves v. Town of Smyrna, Tennessee](#), 959 F.3d 678 (6th Cir. 2020).

[END OF SUPPLEMENT]

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Footnotes

- 1 U.S.—*Stump v. Sparkman*, 435 U.S. 349, 98 S. Ct. 1099, 55 L. Ed. 2d 331 (1978); *Stern v. Mascio*, 262 F.3d 600, 2001 FED App. 0285P (6th Cir. 2001).

Tenn.—*Heath v. Cornelius*, 511 S.W.2d 683 (Tenn. 1974).
- 2 Alaska—*Greywolf v. Carroll*, 151 P.3d 1234 (Alaska 2007).
- 3 U.S.—*Turner v. American Bar Ass'n*, 407 F. Supp. 451 (N.D. Tex. 1975), *aff'd*, 539 F.2d 715 (7th Cir. 1976) and judgment *aff'd*, 542 F.2d 56 (8th Cir. 1976).
- 4 Colo.—*Stepanek v. Delta County*, 940 P.2d 364 (Colo. 1997).
- 5 Fla.—*Fuller v. Truncale*, 50 So. 3d 25 (Fla. 1st DCA 2010).
- 6 Va.—*Harlow v. Clatterbuck*, 230 Va. 490, 339 S.E.2d 181 (1986).

Bankruptcy trustee
Judicial immunity was extended to bankruptcy trustee for actions taken by the trustee on behalf of the estate and within the scope of his authority.

U.S.—*In re McKenzie*, 716 F.3d 404 (6th Cir. 2013), *cert. denied*, 134 S. Ct. 444, 187 L. Ed. 2d 285 (2013).
- 7 U.S.—*Antoine v. Byers & Anderson, Inc.*, 508 U.S. 429, 113 S. Ct. 2167, 124 L. Ed. 2d 391 (1993).

Wash.—*Savage v. State*, 127 Wash. 2d 434, 899 P.2d 1270 (1995).

Tribal judge
Under the Shoshone-Bannock tribal constitution, the chief tribal judge has authority over administration of the tribal court, the assignment of cases, and the management of the court's calendar and business, and thus, where an affidavit of prejudice had been filed against an associate tribal justice, and such justice had been tardy in hearing the case, the chief judge was within his authority in reassigning the case and was judicially immune from civil liability for such action.

U.S.—*Brunette v. Dann*, 417 F. Supp. 1382 (D. Idaho 1976).
- 8 U.S.—*Young v. Peoria Housing Authority*, 479 F. Supp. 1093 (C.D. Ill. 1979).
- 9 U.S.—*Briscoe v. LaHue*, 460 U.S. 325, 103 S. Ct. 1108, 75 L. Ed. 2d 96 (1983).

Alaska—*Trapp v. State*, 53 P.3d 1128 (Alaska 2002).

Colo.—*Stepanek v. Delta County*, 940 P.2d 364 (Colo. 1997).

Nev.—*State v. Second Judicial Dist. Court ex rel. County of Washoe*, 118 Nev. 609, 55 P.3d 420 (2002).
- 10 Conn.—*Lombard v. Edward J. Peters, Jr., P.C.*, 252 Conn. 623, 749 A.2d 630 (2000).
- 11 U.S.—*McGhee v. Moyer*, 60 F.R.D. 578 (W.D. Va. 1973).
- 12 Iowa—*Blanton v. Barrick*, 258 N.W.2d 306 (Iowa 1977).
- 13 **Medical commission**
Where an order, which appointed defendants as practicing physicians to a two-man medical commission to inquire into the mental condition of an individual prior to the time he assaulted and injured plaintiff, was issued pursuant to the authority of a statute, the common law doctrine of judicial immunity could not be extended to cover defendants as quasi-judicial officers acting in the medical commission or expert witnesses called by the district court.

Colo.—*Brown v. Rosenbloom*, 34 Colo. App. 109, 524 P.2d 626 (App. 1974), judgment aff'd, 188 Colo. 83, 532 P.2d 948 (1975).

14 Utah—*Bailey v. Utah State Bar*, 846 P.2d 1278 (Utah 1993).

15 Wash.—*Taggart v. State*, 118 Wash. 2d 195, 822 P.2d 243 (1992).

16 Wash.—*Taggart v. State*, 118 Wash. 2d 195, 822 P.2d 243 (1992).

17 U.S.—*Oliva v. Heller*, 839 F.2d 37 (2d Cir. 1988).

A.L.R. Library

Applicability of judicial immunity to acts of clerk of court under state law, 34 A.L.R.4th 1186.

18 N.Y.—*In re Liquidation of U.S. Capital Ins. Co.*, 36 Misc. 3d 635, 948 N.Y.S.2d 549 (Sup 2012).

19 U.S.—*Antoine v. Byers & Anderson, Inc.*, 508 U.S. 429, 113 S. Ct. 2167, 124 L. Ed. 2d 391 (1993).

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